

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Review No.395 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 6408 of 2016**

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Braj Bihari Prasad, Retired I. P. S, s/o Late Ram Nagina Prasad, resident of
Village.- Ramdatahi, PS- Shahpur, Disttt.- Bhpjpur (Bihar).

.... Petitioner/s

Versus

1. The Union of India through the Home Secretary, Department of Home,
Government of India, New Delhi.
2. The Secretary, Department of Personnel, Training & Public Grievances,
Government of India, New Delhi.
3. The Secretary, Union Service Commission, Dholpur House, Shahjahan road,
New Delhi-110069.
4. State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
5. The secretary, Department of Home, Govt. of Bihar, Patna.
6. The Director General of Police. Old Secretariat, Patna.
7. The Accountant General (A & E) Birchand Patel Path, Patna.
8. The Department of Social Welfare, Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rama Kant Jha, Advocate
For the Respondent/s : Mr. Anil Kumar Verma, AC to AAG-9
For U.O.I. Mr. Rajesh Kumar Verma, CGC

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 15-02-2017

The petitioner has sought review of the order passed
by this Court on 8th of August, 2016 in C.W.J.C. No.6408 of 2016



on the ground that the memorandum of charge was not served on 29th of October, 2005, but it was served on 10th of February, 2006 i.e. after the superannuation of the petitioner, therefore, the entire basis of the order passed by this Court is erroneous.

2. We have heard learned counsel for the petitioner and find no merit in the present review application. A perusal of the memorandum of charge dated 29th of October, 2005 (Annexure-6) shows that the petitioner was informed of the charges and the fact that an enquiry in terms of Rule 6 and 8 of All India Services (Discipline and Appeal) Rules, 1969 is required to be conducted. The petitioner was given time to file reply. It was after considering the reply as 'unsatisfactory', another memo was issued on 10th of February, 2006. The memorandum of charge dated 29th of October, 2005 is complete as it has all the ingredients of a charge memo.

3. In terms of the judgment of the Supreme Court in Union of India Vs. K.V. Janakiraman, (1991) 4 SCC 109, the departmental proceedings are initiated with the issuance of the memorandum of charges.

4. Thus, we do not find that communication dated 29th of October, 2005 was not an act to initiate the departmental proceedings.



5. Consequently, we do not find any merit in the civil review petition. The same is dismissed.

(Hemant Gupta, ACJ)

(Ahsanuddin Amanullah, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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